## UNITED STATES DISTRICT COURT
## FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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| ALEX REINIG, KEN GRITZ, and BOB SODA, individually and on behalf of those similarly situated, | ) ) ) ) | No. 2:15-cv-01541 |
| Plaintiffs, | ) ) | |
| v. | ) ) | |
| CITIZENS BANK, N.A., | ) ) | |
| Defendant. | ) | |

### PLAINTIFFS' NOTICE AS TO DEFENDANT'S METHOD OF CALCULATING STANDARD AND COMMISSION OVERTIME

Plaintiffs submit the following Notice setting forth Defendant's method of calculating standard and commission overtime.

### A. STANDARD OVERTIME CALCULATION

Defendant's compensation plan provides MLOs receive a weekly non-recoverable draw on commissions of their hourly pay up to 45 hours per week. *See* ECF Doc. No. 498 at 2-3. In other words, for each hour reported up to 45 hours, MLOs receive a draw payment equal to their hourly rate. *Id.* Defendant calculates the overtime premium it pays on top of this draw payment by multiplying the hourly rate by 0.5, and multiplying this number by the number of hours worked over 40 up to 5 hours. ECF Doc. No. 179 at 15, fn. 8. Above 45 hours worked in the week, Defendant pays one-and-one-half times the hourly rate as excess standard overtime compensation.

Under the Court's hypothetical, MLO Blue has an hourly rate of $10/hour and works 45 hours. His total compensation for the week is calculated as followed. First, Citizens multiplies the hours worked in the week, 45, by the hourly rate, $10, and calculates $450 as the draw amount. Second, Citizens multiplies the hours worked over 40, i.e., the overtime hours, here, 5 hours, by half the hourly rate, $5, to calculate the overtime premium amount, here, $25. Because MLO Blue

did not work more than 45 hours, there is no additional compensation paid, and MLO Blue's total compensation for the week is **$475**.

### Standard Overtime Equation

**Step 1:** Draw = (Hours Worked < 45 Hours) × (Hourly Rate)

**Step 2:** Standard Overtime = (Hours Worked > 40 and ≤ 45) × (Hourly Rate × 0.5)

**Step 3:** Excess Standard Overtime = (Hours Worked > 45) × (Hourly Rate × 1.5)

**Step 4:** Total Compensation = Draw + Standard Overtime + Excess Standard Overtime

Applying this equation to the hypothetical:

**Step 1:** Draw = $450 = (45 Hours) × ($10/hour)

**Step 2:** Standard Overtime = $25 = (5 Hours) × ($10/hour × 0.5)

**Step 3:** Excess Standard Overtime = $0 = (0 Hours) × ($10/hour × 1.5)

**Step 4:** Total Compensation = **$475** = $450 + $25 + $0

### B. COMMISSION OVERTIME CALCULATION

Defendant's compensation also pays earned commissions and allocates them on a weekly basis. Defendant than pays overtime based on and on top of these earned commissions ("commission overtime."). Defendant modified its calculation for commission overtime in March 2018, but both calculations calculate commission overtime in essentially the same way.

### Commission Overtime Calculation (Peoplesoft)

Prior to March 25, 2018, Defendant calculated the commission overtime by dividing the weekly earned commissions by the hours worked in the week, multiplying this dividend by the number of overtime hours, and then multiplying the product by 0.5. ("Peoplesoft Calculation). See ECF Doc. No. 498 at 4.

If MLO Red worked during this period, and his weekly earned commission was $2000 and he worked 45 hours, his commission overtime would be calculated by dividing $2000 by 45 hours, to derive a commission-based regular rate of $44.44, multiplying this commission-based regular rate by 0.5 and by the 5 overtime hours to arrive at $**111.11** in commission overtime.

### Commission Overtime Equation (Peoplesoft)

**Step 1:** Commission Regular Rate = (Earned Commission ÷ Hours Worked)

**Step 2:** Commission Overtime = (Hours Worked > 40 ) × (Commission Regular Rate × 0.5)

Applying this equation to the hypothetical:

**Step 1:** Commission Regular Rate = $44.44 = ($2000 ÷ 45)

**Step 2:** Commission Overtime = $111.11 = (5 Hours) × ($44.44 × 0.5)

### Commission Overtime Calculation (Ultipro)

After March 25, 2018, Defendant calculated commission overtime by dividing the weekly earned commissions by 40 instead of by the hours worked to arrive at the commission-based regular rate. The rest of the calculation and formula remained the same: Defendants multiplied the commission regular rate by 0.5 and by the number of overtime hours worked and reported to calculate the amount of commission overtime. ("Ultisoft Calculation."). *See* ECF Doc. No. 498 at 5.

Accordingly, if MLO Red is allocated an earned commission of $2000 for the week, and he worked and reported exactly 45 hours, his commission overtime is calculated as follows: His earned commission of $2000 is divided by 40 to arrive at a commission-based regular rate of $50. The commission-based regular rate is then multiplied by 0.5 and the number of overtime hours reported, 5 hours, to derive **$125** in commission overtime.

### Commission Overtime Equation (Ultipro)

**Step 1:** Commission Regular Rate = (Earned Commission ÷ 40)

**Step 2:** Commission Overtime = (Hours Worked > 40 ) × (Commission Regular Rate × 0.5)

Applying this equation to the hypothetical:

**Step 1:** Commission Regular Rate = $50 = ($2000 ÷ 40)

**Step 2:** Commission Overtime = **$125** = (5 Hours) × ($50 × 0.5)

Respectfully Submitted,

*/s/ Joshua Boyette*

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